

**§ 2886.18 How will I know that BLM intends to suspend or terminate my grant or TUP?**

(a) *Grants.* When BLM determines that it will suspend or terminate your grant under § 2886.17 of this subpart, it will send you a written notice of this determination. The determination will provide you a reasonable opportunity to correct the violation, start your use, or resume your use of the right-of-way, as appropriate. In the notice BLM will state the date by which you must correct the violation or start or resume use of the right-of-way.

(1) If you have not corrected the violation or started or resumed use of the right-of-way by the date specified in the notice, BLM will refer the matter to the Office of Hearings and Appeals. An ALJ in the Office of Hearings and Appeals will provide an appropriate administrative proceeding under 5 U.S.C. 554 and determine whether grounds for suspension or termination exist. No administrative proceeding is required where the grant by its terms provides that it terminates on the occurrence of a fixed or agreed upon condition, event, or time.

(2) BLM will suspend or terminate the grant if the ALJ determines that grounds exist for suspension or termination and the suspension or termination is justified.

(b) *TUPs.* When BLM determines that it will suspend or terminate your TUP, it will send you a written notice and provide you a reasonable opportunity to correct the violation or start or resume use of the TUP area. The notice will also provide you information on how to file a written request for reconsideration.

(1) You may file a written request with the BLM office that issued the notice, asking for reconsideration of the determination to suspend or terminate your TUP. BLM must receive this request within 10 business days after you receive the notice.

(2) BLM will provide you with a written decision within 20 business days after receiving your request for reconsideration. The decision will include a finding of fact made by the next higher level of authority than that who made the suspension or termination determination. The decision will also inform

you whether BLM suspended or terminated your TUP or cancelled the notice made under paragraph (b) of this section.

(3) If the decision is adverse to you, you may appeal it under § 2881.10 of this part.

**§ 2886.19 When my grant or TUP terminates, what happens to any facilities on it?**

(a) Subject to § 2886.11, after your grant or TUP terminates, you must remove any facilities within the right-of-way or TUP area within a reasonable time, as determined by BLM, unless BLM instructs you otherwise in writing, or termination is due to non-payment of rent (see § 2885.17(c) of this part).

(b) After removing the facilities, you must remediate and restore the right-of-way or TUP area to a condition satisfactory to BLM, including the removal and clean-up of any hazardous materials.

(c) If you do not remove all facilities within a reasonable period, as determined by BLM, BLM may declare them to be the property of the United States. However, you are still liable for the costs of removing them and for remediating and restoring the right-of-way or TUP area.

**Subpart 2887—Amending, Assigning, or Renewing MLA Grants and TUPs****§ 2887.10 When must I amend my application, seek an amendment of my grant or TUP, or obtain a new grant or TUP?**

(a) You must amend your application or seek an amendment of your grant or TUP when there is a proposed substantial deviation in location or use.

(b) The requirements to amend an application or a grant or TUP are the same as those for a new application, including paying processing and monitoring fees and rent according to §§ 2884.12, 2885.23, 2885.19, and 2886.11 of this part.

(c) Any activity not authorized by your grant or TUP may subject you to prosecution under applicable law and to trespass charges under subpart 2888 of this part.

## §2887.11

(d) Notwithstanding paragraph (a) of this section, if you hold a pipeline grant issued before November 16, 1973, and there is a proposed substantial deviation in location or use of the right-of-way, you must apply for a new grant.

(e) BLM may ratify or confirm a grant that was issued before November 16, 1973, if we can modify the grant to comply with the Act and these regulations. BLM and you must jointly agree to any modification of a grant made under this paragraph.

### §2887.11 May I assign my grant or TUP?

(a) With BLM's approval, you may assign, in whole or in part, any right or interest in a grant or TUP.

(b) In order to assign a grant or TUP, the proposed assignee, subject to §2886.11 of this part, must file an application and satisfy the same procedures and standards as for a new grant or TUP, including paying processing fees (see §2884.12 of this part).

(c) The assignment application must also include:

(1) Documentation that the assignor agrees to the assignment; and

(2) A signed statement that the proposed assignee agrees to comply with and to be bound by the terms and conditions of the grant or TUP that is being assigned, and all applicable laws and regulations.

(d) BLM will not recognize an assignment until we approve it in writing. BLM will approve the assignment if doing so is in the public interest. BLM may modify the grant or TUP or add bonding and other requirements, including terms and conditions, to the grant or TUP when approving the assignment. If BLM approves the assignment, the benefits and liabilities of the grant or TUP apply to the new grant or TUP holder.

(e) The processing time and conditions described at §2884.21 of this part apply to assignment applications.

### §2887.12 How do I renew my grant?

(a) You must apply to BLM to renew the grant at least 120 calendar days before your grant expires. BLM will renew the grant if the pipeline is being operated and maintained in accordance

## 43 CFR Ch. II (10–1–06 Edition)

with the grant, these regulations, and the Act. If your grant has expired or terminated, you must apply for a new grant under subpart 2884 of this part.

(b) BLM may modify the terms and conditions of the grant at the time of renewal, and you must pay the processing fees (see §2884.12 of this part) in advance.

(c) The time and conditions for processing applications for rights-of-way, as described at §2884.21 of this part, apply to applications for renewals.

## Subpart 2888—Trespass

### §2888.10 What is trespass?

(a) Trespass is using, occupying, or developing the public lands or their resources without a required authorization or in a way that is beyond the scope and terms and conditions of your authorization. Trespass is a prohibited act.

(b) Trespass includes acts or omissions causing unnecessary or undue degradation to the public lands or their resources. In determining whether such degradation is occurring, BLM may consider the effects of the activity on resources and land uses outside the area of the activity.

(c) BLM will administer trespass actions for grants and TUPs as set forth in §§2808.10(c), and 2808.11 of this chapter, except that the rental exemption provisions of part 2800 do not apply to grants issued under this part.

(d) Other Federal agencies will address trespass on non-BLM lands under their respective laws and regulations.

### §2888.11 May I receive a grant if I am or have been in trespass?

Until you satisfy your liability for a trespass, BLM will not process any applications you have pending for any activity on BLM-administered lands. A history of trespass will not necessarily disqualify you from receiving a grant. In order to correct a trespass, you must apply under the procedures described at subpart 2884 of this part. BLM will process your application as if it were a new use. Prior unauthorized use does not create a preference for receiving a grant.